Dear Howard, 11/21/74

Glad to get so much good news from you at one time!

You are correct. Workm is too much! Can't catch up on anything or really get anything completed.

Jim and I did well on the Ray case but Bud was as usually our biggest problem. I expect this to get worse. In fact, I'm helping it to because the problem must be resolved one waym or another.

Were this not so delicate and political a case I'd say that regardless of Bud's cowardice and fucking up we'd have no problems. However, the case iself presents the most serious political and legal problems for countless people of real influence.

However, if the impressed one of your profs wants to really give encouragement to his unfledged lawyers, then I'd recommend that he read the 6th circuit's decision in Ray v Rose and see first what an experienced investigator and an imaginative and very hard-working, first-case lawyer can do against the most overwhelming odds. To this he should then add the discovery precedent we have set under habeas corpus, in that case the State of Tennessee filed against Judge Robert McRae. Same team. Senior counsel did nothing. My work, Jim's taking it forward because he knew what to ask for. The State's request for a stay was done with such contempt for proprieties that it delivered the appeals minority to us and the Supreme Court refused to issue the stay. Now the State is appealing the question of discovery itself. It lost in 6th circuit and the Supreme Court has not decided cert. I'm torn on this. I'd love this case to be precedent because when we dump in public the incredible material we got despite the official kicking and screaming on discovery I can t see how any court can deride these rights are other than minimal and essential. But when Jim and I have to do all the work and have to fight our supposed colleagues as well as the actual adversary, it is too much. Discovery was a constant fight, unending challenge, and I think that under the great handicaps we did the best possible. It was Jim and I alone. We even got stolen intercepts of Ray's counsel communications from the home of the former DA and the official instructions for all his mail to be intercepted by the sheriff and delivered to the prosecutor, complete with instructions for who in that office would xerox. Make Ellsberg (Russo) look pale? Only openers! We even made them admit they dove into the toilet for his secret papers.

The State was hot to get me. Unhidden. Asking questions openly, too, questions that disclose deep investigation of the past. (Learn to stay head-to-head, never turning the back.) They copped out but it looked rough for a while. But they told me to my face, with witnesses, that they were out to get me. With the use Jim made, I roont 'em!

After a couple of days Martin Waldron came up to me on a break and asked, straight, "Harold, aren't you ashamed of yourself?" I asked why. "For fuckin' up the whole FBI, the State of Tennessee and Shelby County (where Memphis is)!" We laughed. The last day of the hearing proper same scenario, only this time that giant draped me in his hugging left arm and chided, "Harold, you old bastard, don't you know what overkill is?" We had just kidnapped the sixth in a series of rebuttal witnesses, all surprise witnesses (fake list about which judge did nothing). For nex t to the last where Bud was totally ignorant and we had only the hour lunch break and needed privacy, with the motel almost half the time round trip I thought of and led Bud to Ray's cell! I asked Jimmy to stay away and gave Bud more in publishing than he could absorb, including some nice twists, appropriate exhibits that I just happened to have on me to read to the witness we made ours, a Bantam Vice president. So, the state took this break to decide its course. It quit. It put no more witnesses on! It takes imaginativeness and some daring. Bud had no preparation. No Constitutional law expert, no publishing expert. So, we merely stole theirs on the stand!

Jim was under extraordinary pressures, more because this is his first real case. He was great! I know I remain very tired. He is preparing an odd, bobtailed form of closing argument to be filed by Saturday's mail.

But you can't imagine how much worse than you ever knew the internal situation is.

With a hell of a row I prevented a copout in Memphis. That bad. So, I'm hated more.

It is so bad that one night when Bud was out partying and I had other work I had to get done, at 11 p.m. I began to type up questions for him and Jim to ask witnesses who were total strangers to them. I had never seen one and had had only a brief conversation with another a couple of weeks earlier. The three others I'd interviewed once, 2/71! They stacked! The lawyers read the questions cold while I had our criminalist examining objects on which he was to give expert testimony. But can you- or your prof- imagine trying a case this way?

Fine that you've contracted the new book. You can now forget about it. You had to do it anyway and whatever you get is that much more than nothing. Helps with prestige, too. You just don't have time to do otherwise. Sorry Presumed is delayed. Popular reception to ours and continuing sale of the old presage a good market. And you'll have what I don't, commercial distribution. (We'd be glad to sell at normal terms to your college bookstore(s).

I've spent most of the time since Friday night, at least more than on anything else, in phoned radio broadcasts. If you see any stories, please save and send. AP had one. UPI will. If any appreciable part of the audience I've reached by phone (I paid no charges) orders, we'll have a nice hunk for Jim to give back to his bank. Funny: last supportime I got a cold call from WWL, New Orleans, a new reporter there, unknown to me. We had hardly finished that broadcast when I got a call from close by, Virginia, based on it ordering the book. And yesterday a call from a weekly newspaper where someone had heard a broadcast inspired by a Zodiac news item. Tiring, challenging but fun.

I expect someone soon. Thanks for the clips. The Miami Herald can be helpful with some of my interests. I've read only the Buckley. Hope there was good reporting of the answers if those questions were asked.

Keep happy. Delighted you are finding challenge and learning so much so fast!

Our best,